

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
NOVEMBER 15, 2004

**D045246        In re Parker on Habeas Corpus**

The petition is denied.

**D041716        People v. Felder**

**D041717        People v. Felder**

The trial court is directed to amend the abstract of judgment to reflect a single two-year enhancement under section 12022.1, subdivision (b), and a two-year, unstayed, sentence on count 3, as well as three hundred thirty eight days of presentence credit. The trial court shall forward the amended abstract of judgment to the Department of Corrections. In all other respects, the judgment is affirmed. O'Rourke, J.; We Concur: Huffman, Acting P.J., Irion, J.

**D043114        People v. Martinez**

The conviction for false imprisonment by violence (§§ 236, 237, subd. (a)) is ordered stricken. In all other respects, the judgment is affirmed. The superior court is directed to amend the abstract of judgment accordingly and to forward a certified copy of the amended abstract to the Department of Corrections. McConnell, P.J.; We Concur: Huffman, J., Haller, J.

**D043013        Gorges et al. v. Somo**

The petition for rehearing is denied.

Court convened at 9 a.m.

Present: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate justices Richard Huffman and Alex McDonald

Clerk: D. E. Moore

**D042540        Payne v. Volume Services America Inc., et al.**

Cause called on merits. Amy T. Wintersheimer Findley, Esq. argued for respondent. David A. Stevens, Esq. argued for appellant. Sandra Schmidt, Esq. was present in oral argument for appellant, but did not argue. Cause submitted.

Court recessed at 10:14 a.m. to change panel members. New panel members: The Honorable Alex McDonald, Acting Presiding Justice, and The Honorable Associate Justices Cynthia Aaron and Joan Irion

**D044857        Jessica A. et al. v. Superior Court**

Matter called on merits. James McMahon, Esq. argued for petitioner, Jessica A. Judith E. Klein, Esq. was present in oral argument, but did not argue. Lisa Maldonado, Deputy County Counsel argued for respondent. Mr. McMahon replied. Matter submitted.

**D044866        Blanca B. et al. v. Superior Court**

Matter called on merits. James McMahon, Esq. argued for petitioner. Katherine Bird, Deputy County Counsel argued for respondent. Mr. McMahon replied. Matter submitted.

Court adjourned at 10:50 a.m.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
NOVEMBER 15, 2004 (Continued)

**D039544        People v. Burroughs**

The judgment is affirmed, except the ruling denying Burroughs section 2900.5 credits toward his prison term for time spent in the alcohol counseling program prior to July 18, 2001, is reversed and the matter is remanded to the trial court with directions that it conduct an evidentiary hearing on that issue and decide those questions of fact and whether he is entitled to section 2900.5 custody credits toward his prison sentence for that time and, if so, the appropriate number of days of credits. McDonald, J.; We Concur: Benke, Acting P.J., Aaron, J.

**D045189        Keefer v. Workers' Compensation Appeals Board, Compucraft and Liberty Mutual Insurance Company**

The petition is denied.

**D042351        Ryan v. Ronquillo et al.**

The petition is denied.

**D043912        People v. Blake**

The judgment is affirmed. McConnell, P.J.; We Concur: McIntyre, J., Aaron, J.

**D044021        In re Brielle B., a Juvenile**

The appeal is dismissed. McDonald, J.; We Concur: McConnell, P.J., Benke, J.

**D041742        Misek-Falcoff v. Douglas**

The judgment is affirmed. Alan is entitled to costs on appeal. McDonald, Acting P.J.; We Concur: Aaron, J., Irion, J.

**D045192        Zora et al. v. Superior Court of San Diego County/M&H Realty Partners IV**

For good cause shown the Superior Court of the County of San Diego is ordered to show cause why the relief requested should not be granted. Absent objection on or before November 23, 2004, the informal briefs on file will be deemed the return and reply to the order to show cause. Oral argument will be deemed waived unless requested on or before November 30, 2004. The stay issued October 29, 2004 remains in effect.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
NOVEMBER 16, 2004

**D044981        McGarr v. Superior Court of San Diego County/Harris et al.**

The unopposed motion to dismiss is granted. The petition is dismissed. The stay issued on September 10, 2004, is vacated.

**D044144        People v. Bramhall**

The judgment is affirmed. Benke, Acting P.J.; We Concur: O'Rourke, J., Aaron, J.

**D043538        Sukumar v. Sukumar et al.**

The order is affirmed. Wife is entitled to costs on appeal.

**D043348        People v. Meraz**

The petition for rehearing or modification is denied. The request to file supplemental briefing is denied.

**D045267        Stretton v. Superior Court of San Diego County/Peters**

The petition is denied.

**D044093        People v. Ganceda**

The judgment is modified to strike the prior prison term enhancements and affirmed as modified. Haller, J.; We Concur: Benke, Acting P.J., Aaron, J.

**D044747        SMS Financial VII, LLC v. Luly, Jr.**

Upon written stipulation filed by the parties to the appeal, the appeal is dismissed. Each party to bear own costs on appeal.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
NOVEMBER 17, 2004

**D043373        Mendoza v. Lanes et al.**

The order is affirmed. The defendants are entitled to recover their costs on appeal. McIntyre, J.;  
We Concur: Nares, Acting P.J., Irion, J.

**D045324        In re Mikho on Habeas Corpus**

The petition is denied.

**D045223        Jeannie C. v. Superior Court of San Diego County/San Diego County Health and  
Human Services Agency**

The attorney for petitioner Jeannie C. has notified the court on behalf of the petitioner that a Petition for  
Writ of Mandate under Rule 39.1B will not be filed. The case is DISMISSED.

**D044645        In re Alisha G., a Juvenile**

The judgment is affirmed. Nares, J.; We Concur: McConnell, P.J., Huffman, J.

**D044450        In re Melina B. et al., Juveniles**

The judgment is reversed. The matter is remanded to the juvenile court with directions to conduct a new  
section 366.26 hearing. O'Rourke, J.; We Concur: Huffman, Acting P.J., McDonald, J.

**D045384        Abel A. v. Superior Court of San Diego County/San Diego County Health and  
Human Services Agency**

The notice of intent to file writ petition, filed on November 10, 2004, is untimely. The case is dismissed.

**D045265        Winston v. Superior Court of San Diego County/William E. Kolender**

The petition is denied.

**D042861        Fifield v. Volume Services America et al.**

The judgment is affirmed. O'Rourke, J.; I Concur: McIntyre; I Dissent: Irion, J. (opinion)

**D044198        In re Diego A., a Juvenile**

The order is affirmed. Irion, J.; We Concur: McIntyre, Acting P.J., Aaron, J.

**D042138        Gregg v. Revelle**

In sum the records provided the trial court were simply too fragmented and incomplete for it to properly  
exercise its discretion in awarding fees. The order granting fees and costs is reversed. Appellant to  
recover costs on appeal. Benke, Acting P.J.; We Concur: Huffman, J., Aaron, J.

**D045251        Josefina A. v. Superior Court of San Diego County/San Diego County Health and  
Human Services Agency**

The attorney for petitioner Josefina A. has notified the court on behalf of the petitioner that a Petition for  
Writ of Mandate Under Rule 39.1B will not be filed as there are no viable issues for writ review. The  
case is dismissed.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
NOVEMBER 17, 2004

**D045224      Martha A. et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

The attorney for petitioner Jorge G. has notified the court on behalf of the petitioner that a Petition for Writ of Mandate Under Rule 39.1B will not be filed. The case as to Jorge G. is dismissed.

**D042456      People v. Souvannavong**

The opinion filed October 22, 2004, is modified (there is no change in judgment). As modified, the petition for rehearing is denied.

**D045086      Loye v. Superior Court of San Diego County/Ciurleo**

The petition is denied.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE  
NOVEMBER 18, 2004

**D045403        In re Smith on Habeas Corpus**

The petition is denied.

**D044094        People v. Grytness**

The judgment is affirmed. McDonald, Acting P.J.; We Concur: O'Rourke, J., Irion, J.

**D044044        In re Miguel E. et al., Juveniles**

Judgment affirmed. Huffman, J.; We Concur: Benke, Acting P.J., O'Rourke, J.

**D043416        Olszewski v. Scrippshealth**

The order is affirmed. Scripps is entitled to costs on appeal. McDonald, J.; We Concur: Huffman, Acting P.J., O'Rourke, J.

**D045090        Nicklett T. et al., v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

By failing to file a timely petition for writ relief, the notice of intent is deemed to be abandoned. The case as to Nicklett T. is dismissed.

**D045248        In re Blanton on Habeas Corpus**

The petition is denied.

**D042030        Torres v. U.S.A. Waste of California, Inc.**

**D042577        Torres v. U.S.A. Waste of California, Inc.**

The judgment on special verdict is reversed and the trial court is directed to enter a judgment notwithstanding the verdict in favor of U.S.A. Waste of California Inc. The postjudgment order awarding expert costs and attorney fees is vacated. The parties shall bear their own costs on appeal. O'Rourke, J.; We Concur: McConnell, P.J., Nares, J.

COURT OF APPEAL OF THE STATE OF CALIFORNIA  
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NOVEMBER 19, 2004

**D044785        In re Abel on Habeas Corpus**

The petition is denied.

**D044935        In re N.S., a Juvenile**

The opinion is dismissed. Nares, J.; We Concur: Benke, Acting P.J., Aaron, J.

**D045392        People v. Venie**

A judgment of contempt is not appealable. The appeal is dismissed.

**D042779        People v. Croteau**

The judgment is reversed as to the sentence on count 1 and the parole restitution fine, and the matter is remanded for resentencing in a manner consistent with the views expressed in this opinion. In all other respects, the judgment is affirmed. Huffman, J.; We Concur: McConnell, P.J., Haller, J.

**D045401        People v. OShea**

Review of a decision by the appellate division of superior court is by certification and transfer.  
The appeal is dismissed.